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FREEDOM OF ELECTIONS
TO
PARLIAMENT,
A
Fundamental Law and Liberty
OF THE
English Subject;
AND
SOME PRESIDENTS
Shewing the Power of the
House of Commons

To inflict Punishments on Those who have
been Guilty of Misdemeanours either in Ele-
ctions or Returns.

In a Letter to a Member of PARLIAMENT.

According to the Constitution of the English Government, and Immemorial Custom, All Elections of Parliament-men ought to be made with an Entire Liberty, without any sort of Force, or requiring the Electors to chuse such Persons as shall be named to them; and the Persons thus freely Elected, ought to give their Opinions freely upon all matters that are brought before them, having the Good of the Nation ever before their eyes, and following in all things the Dictates of their Conscience. P. of Orange's Declaration.

London: Printed for Dan. Brown, at the Black-Swan and Bible
without Temple-Bar; and Tim. Goodwin, at the Maiden-head
over-against St. Dunstan's Church in Fleet-street. 1690.

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PAUL H. RAVENHILL

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CHICAGO, ILL.

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SIR,



According to your Commands, I have now sent you, out of my little reading, a true Information of what *Punishments* the *House of Commons* have inflicted upon such *Persons*, who by *fraud*, *force*, or *bribery*, have *violated* the *Ancient Liberties* and *freedoms* of the *Commons* of Eng-

land, in making *undue Returns* of Members to serve in *Parliament*: And what I have here done in pure Obedience, I hope you will receive with all friendly Candor and Benignity; but you will give me leave first, I hope, to say something concerning our *undoubted Right* to the *Freedom of Elections*.

I find it, Sir, very clear, that it hath been *accustomed* of old times to have *Free Elections*; and that this was a *Fundamental Law* and *Liberty* of *England*. For the Statute of *Westminster* the first (which was made above *four hundred* years ago, by the *Assent* An. Dom. 1274. of the Archbishops, Bishops, Abbots, Priors, Earls, Barons, and all the *Comminalty* of the Realm thither summoned) provideth, That *Elections* should be *freely* and *duly* made, without any disturbance whatsoever; but I will give it you in its own words.

Because *Elections* ought to be Free, the King commandeth upon great Forfeiture, That no Great Man, nor Other, by force of Arms, nor by malice

Rastall's Stat.
fol. 15. 3 E.
i. cap. 5.

malice or menacing, shall disturb any to make Free Election.

For it was a **Right and Liberty** which the good
An. Dom. 1224. People of *England* had confirmed to them *fifty years*
 before, as appears by the 9th Chapter of the *Statute* of
Magna Charta, *Anno 9. Hen. 3.* which says, That
Magna Charta
9 H. 3. cap. 9. the **City of LONDON** shall have **ALL** the Old
 Liberties and Customs which it hath been used to
 have. And then it does immediately follow, **More-**
over, We will and grant, That ALL other
Cities, Burroughs, Towns, and the Barons of the
Five Ports, and all other Ports, shall have all their
Liberties and Free Customs.

Liberties are here taken for Priviledges, such as (my
 Lord Coke says) of Right the People had before.

2 Inst. fol. 168, And in his Comment upon the abovementioned
169. Chapter of *Westminster 1.* he bids us see the Statute of
7 H. 4. cap. 15. *7 H. 4.* which says, 'That for Knights of the Shires
 'for the Parliament in full County, a free and indiffe-
 'rent Election shall be made, notwithstanding any
 'Prayer or Commandment to the contrary.'

'This Statute was made at the grievous Complaint of
4 Inst. fol. 10. 'the *Commons*, being interrupted of their free Ele-
Rot. Parl. 46 'ction by the King's Letters Patents, by pretext of an
E. 3. n. 13. 'Ordinance in the Lords House in *46 Edw. 3.* but for
 'the future it was to be *sine prece*, without any Prayer,
 'or Gift; and *sine precepto*, without Commandment
 'of the King, by Writ, or otherwise, or of any other.
 'And, he says, this was an Act but declaratory of
 'the **Ancient Law**, and **Custom** of **Parlia-**
 'ment.

2 Inst. 169. 'There were two **Mischies** before the making of this
 'Statute, as my Lord Coke observes.

1. For that **Elections were not duly made.**

2. That **Elections were not freely made.**

' And both these were against the ancient Maxim of the Law, *Fiant Electiones ritè & liberè sine interrupti-*

Regula.

one aliqua; And again, *Electio libera est*; for before

7 H. 6. 11. a.

this Act, in the irregular Reign of H. 3. the Electors

had neither their free nor their due Elections; for

sometimes by force, sometimes by menaces, and

sometimes by malice, the Electors were framed, or

wrought to make Election of Men Unworthy, and

not Eligible, so as their Election was neither due

nor free. This Act briefly rehearseth the Old Rule

of the Common-Law (for that Elections ought to

to be free) wherein both the said Points are included.

1. It must be a due Election; and 2. It must be a

free Election.

This Statute doth enact, That no Man, upon grie-

vous Forfeiture, shall disturb any to make free Ele-

ction, and is excellently penned in two respects:

' First, For that generally it extendeth to all Elections; that is to say, to every Dignity, Office, or Place elective, be it Ecclesiastical or Temporal, of what kind or quality soever.

The Act is penned in the Name of the King, viz.

The King commandeth; and therefore the King

bindeth himself not to disturb any Electors to make

free Election, as in the like Case upon a Statute made

in the Reign of the said King; the Act saying, *Rex*

perpendens, &c. the same bound the King.

Now that Electors might make free and due Ele-

ctions without displeasure or fear thereof, by this Act

* Note, Common-Law is general Prescription; and that Prescription is before 1 R. 1. who was elder Brother to King John, Father to H. 3.

Westm. 2. 13
E. 1. cap. 1.
2 Inst. 332.

‘ of Parliament, as a sure defence, the King commandeth the same upon grievous forfeiture.

‘ And this Act extends to **All Elections**, as well by those that at the making of this Act had Power to make them, as by those whose Power was raised or created since this Act.

Nota bene.

‘ **Grievous forfeiture.**] That is, the *Disturbers* to be punished by **grievous fines** and **Imprisonments**. Thus far the Learned Chief-Justice *Coke*.

4 Inst. 1.

‘ And it is observed, says the same Great Man, that ‘when there is *best Appearance*, there is the best Success in Parliament.

Raft. Stat. 140.

5 R. 2. cap. 4.

Therefore there was a special Act of Parliament made on purpose in the 5th R. 2. to command all and singular Persons and Communalities, which from thenceforth should have the Summons of the Parliament, to come to the Parliament in the manner as they were bounden to do, and had been accustomed within the Realm of England of old times. And if any person so summoned (be he Archbishop, Bishop, Abbot, Prior, Duke, Earl, Baron, Banneret, Knight of the Shire, Citizen of City, Burgefs of Burgh, or other singular Person or Communalty) should absent himself, and come not at the said Summons (except he could reasonably and honestly excuse himself) he should be amerced, and otherwise punished, according as of old times had been used to be done within the Realm.

Sheriff's negligence in making Returns.

Or Omission.

And if any Sheriff should from thenceforth be negligent in making his Returns of Writs of the Parliament, or leave out of the said Returns any Cities or Burroughs, which were bound, and of old times wont to come to Parliament, he should

should be punished in the manner as was accustomed to be done in the said Case in time past.

The Parliament was anciently Adjourned of course till a Further day, because that several of the Lords and Commons were not come up, nor their Writs returned: and the declaring the Causes of calling it, was usually deferred till they were all come up, and appeared, as you may see in several places of *Cotton's Abridgment of Records*: For instance, 6 E. 3. n. 5. 13 E. 3. n. 5. 15 E. 3. n. 4, 5. 17 E. 3. n. 2. 20 E. 3. n. 5, 6. 21 E. 3. n. 4. 22 E. 3. n. 1. 25 E. 3. n. 1. 42 E. 3. n. 1. 51 E. 3. n. 3. 2 R. 2. n. 1. 4 R. 2. n. 1, 2. 5 R. 2. n. 65. 6 R. 2. n. 1. 9 R. 2. n. 1. 9 H. 4. n. 1, 2. The Parliament was adjourned, because sundry of the Commons House made default, and were absent. So careful were our Prudent Ancestors to have a *Full Representative* of the whole Kingdom, whenever a Parliament was to meet, before they would proceed to act in any publick business, to prevent all *Surprises* that might be feared from any Party whatsoever, but especially in the **making** and **enacting** of publick and general Laws, and giving of **Subsidies** and **Aids** to the Crown; for they well remembred the good old Rule of their *Predecessors*, *quod omnes tangit, ab omnibus approbetur*.

King *James the First*, in a Message sent down to the *House of Commons*, said to this effect, That every Member who did serve for a *Town* or a *Shire*, his *Attendance* and *Service* in the *House* was a *very great Duty*; and that the *Departure* or *Absence* of *Any* Member of the *House of Commons*, was a *greater Contempt*, than *Any Nobleman's Departure*, who served only for himself.

And the Reason is very plain and obvious; for it was not only necessary that *Both Houses* should be full at their

Cotton's Abridg. Sparfim.

Journ. Dom
Com. Die Veneris 27 Feb. 4.
Jac. 1. An.
Dom. 1606.

6 H. 8. cap. 16.

Rast. Statutes
429.

6 H. 8. cap. 16.

their first Meeting, but that they should continue so to be, as long as the Parliament it self continued; and this appears by a Declarative Statute, made in the 6th Hen. 8. which says, that *forasmuch as commonly in the end of Every Parliament, divers and many great and weighty Matters, as well touching the Pleasure, Weal, and Surety of the King, as the Common-weal of the Realm, and Subjects thereof, are to be Created, Communed of, and by Authority of Parliament to be Concluded; so it is, that divers Knights of Shires, Citizens for Cities, Burgeses for Burroughs, and Barons for the Cinque-Ports, long time before the end of the Parliament, of their own Authorities depart, and go home into their Countries, whereby the said great and weighty matters are many times greatly delayed.* Therefore it was provided by the said Act, That *no Knight, Citizen, Burges, or Barons of the Cinque-Ports, that for the future should be Elected to come, or be in any Parliament, should depart from the Parliament, nor absent themselves from the same, without the License of the Speaker and Commons in Parliament assembled, to be entred upon Record in the Book of the Clerk of the Parliament, upon pain to lose all those Sums of Money, which he or they should or ought to have had for his or their Wages. And that all the Counties, Cities, and Burroughs, whereof any such Person should be Elected, and the Inhabitants of the same, should be clearly discharged of the said Wages against the said Person and Persons, and their Executors for evermore.*

But

But to return to what this may seem to be a digression from.

King *Richard the Second*, through the unconfined Flattery of his Ambitious Favourites, being driven on to fierce and violent Ruptures with the other *Great Men* of the Land, who opposed the *Male-administration* of those Publick Enemies to the King and Kingdom's Peace and Happiness; and being to call a Parliament in the Tho. Walsing.
Hisor. Angl.
fol. 329.

Eleventh Year of his Reign, was advised to Summon all the **Sheriffs** of *England* unto *Nottingham-Castle*, and to enquire of them what Power they could raise for him in every County, against those *Great Men* that did so oppose both him and his beloved *Minions*; and charged them, *ut Ipsi nullum Militem de pago vel Schira permitterent eligi, nisi quem Rex, & ejus Concilium elegerent.* Whereunto the Sheriffs answered, That all the *Commons* favoured those *Great Men*; neither was it in their Power to raise any Army or Force in that Cause: Closetting advised by the Kings
Chief Ministers.
De Militibus eligendis dixerunt, Communes velle tenere consuetudines Usitatas, quæ volunt, quod à communibus Milites eligantur. Whereupon they were dismissed. Mr. Prinns Plea
for the Lords,
and House of
Peers, P. 384,
385.

Upon that the King soon after issuing out Writs to the Sheriffs to elect Knights and Burgeses for the Parliament, inserted this strange and unusual Clause into them, that they should chuse such men as were *in debatis modernis magis indifferentes.* Rot. Claus. 11
R. 2. m 24.
dorfo.

But the King being quickly after informed by his Council, that that Clause in those Writs was an **illegal Clause**, sent out New Writs to supersede those other, wherein it was declared by him, *Dictam Clausulam [viz. in Debatis modernis magis indifferentes] contra formam Electionis antiquitus usitatæ ac contra Libertatem Dominorum & Communitatis Regni Angliæ eatenus obtentam existere.* Rot. Claus. 11
R. 2. m 23.
dorfo.

But

But notwithstanding all this, his Favourites, *suæ peli-
timentes* (as *Tho. Walsingham's* words are) to protect
and cover themselves from the common and deserved
Justice of the Nation, perswaded him so highly to in-
vade the *Ancient Form of Elections*, and the *Liberties*
of the *Lords* and *Commons*, (and you know, *Sir*, that
the People of *England* have in all Ages been celebrated
for their *firm Adherence* to their good *Old Liberties* and
Privileges) that at last it became one of the † 33 Ar-
ticles for which he was *Deposed*. It begins thus ;

† *Vide Cotton's*
Abridg. of Rec.
1 H. 4. fo. 386.
n. 18.

Prin's Plea for
the Lords, p.
438.

Artic. 19. *Item, licet de Statuto & Consuetudine*
Regni, Although by the *Statute* and *Custom* of the Realm,
in the calling together of every Parliament, the People
[*in singulis Comitatibus Regni debeat esse Liber ad eli-
gendum & deputandum Milites pro hujusmodi Comitati-
bus ad interessendum Parlamento*] ought
to be free in *chusing* and deputing Knights to
be present in such Parliaments for each respective
County, and to declare their *Grievances*, and to
prosecute such *Remedies* thereupon, *prout eis videretur*
expedire ; as to them should seem expedient. Yet the
King, *ut in Parliamentis suis liberiùs consequi valeat suæ*
temerariæ Voluntatis effectum, that he might in his Par-
liaments be able more **arbitrarily** to accomplish the
effects of his head-strong will, did very often direct his
*commands to his Sheriffs, ut certas personas per ipsum Re-
gem nominatas, ut Milites Comitatum, venire faciant ad*
Parliamenta sua, that they should cause to come to his
Parliaments, as Knights of the Shire, certain Persons
named by the King ; which Knights being his Favou-
rites, he might lead, as often he had done, *quandóque*
per minas varias & terrores, quandóque per Munera, some-
times by various *Menaces* and *Terrors*, and sometimes by
Gifts, to consent to those things as were *prejudicial* to
the

the *Kingdom*, and exceeding burthensome to the People; and especially to grant to the King a *Subsidy* on Wool for the *term of his Life*, and another *Subsidy* for certain Years, thereby too grievously oppressing his People.

I shall descend from that unfortunate Prince, to King ^{23 H. 6. cap. 15.} *Hen. 6.* and there in the 23^d year of his Reign, (almost 256 years ago) a Statute was made, intituled, *Who shall be Knights for the Parliament. The manner of their Election. The Remedy where one is chosen, and another returned.* In the Body of which we read, That every Sheriff, after the delivery of the Writ to him made, shall make and deliver without fraud a Precept under his Seal, to every Mayor, and Bailiff or Bayliffs, or Bailiff, where no Mayor is, of the Cities and Buroughs within his County, reciting the Writ, commanding them, if it be a City, to chuse by Citizens of the same City, Citizens; and if a Burough, Burgesles, to come to the Parliament; and such Officers as aforesaid shall return Lawfully such Precept to the same Sheriff, by Indentures between them, of such Elections, and the Names of the Citizens and Burgesles so chosen, and thereupon every Sheriff shall make a good and Rightful Return of every such Writ, and of every Return by such Officers as aforesaid.

Pulton's Stat.
fol. 349.

And every Sheriff, at every time that he does contrary to this Statute, or any other Statutes for the Election of Knights, Citizens, and Burgesles, shall incur the pain contained in the Statute of ^{3 E. 1.} 8 H. 6. which is to ^{8 H. 6. cap. 7.} for:

Note

The difference of the Value of 100 l. then, and 100 l. now, for K. H. 8. left to his Two Daughters by his Will no more than 10000 l. a piece, who were afterwards Queens of England.

The publick Detestation and Abhorrence of pack'd Returns of Knights, Citizens, and Burgeses to Parliament.

forfeit 100 l. to the King, and suffer a Years Imprisonment, without Bail or Mainprize) and moreover shall forfeit and pay to every Person so chosen, Knight, Citizen, or Burges, and not duly returned, or to any other Person, who in default of any such Knight, Citizen, or Burges, will sue, 100 l. more, to be recovered by Action of Debt against the said Sheriff, or his Executors, or Administrators, with his or their Costs in such case dispended, in which Action the Defendant shall not wage his Law, nor have any Essoign allowed. And in the same manner, at every time that any Mayor and Bailiffs, or Bailiff, or Bailiffs where no Mayor is, shall return other than those who be chosen by the Citizens and Burgeses, of the Cities or Burroughs, where such Elections shall be made, they shall incur and forfeit to the King 40 l. and moreover 40 l. to the Person so chosen and not returned, to be recovered in manner as aforesaid, by such Person chosen, or any other who in their Default will sue for the same.

One would imagine that after such an Act as this was made, it should scarce ever be attempted by any to invade our Liberties, especially in a point that so nearly concerns the Salvation of all our Interests: For as the old Lord Treasurer Burleigh (who was accounted the greatest Statesman that ever this Nation had) was often heard to say, *That England could hardly ever be ruined, unless it were by her own Parliaments*; so we need never to fear that Parliaments will undo us, unless we suf-

suffer our selves to be ~~drawn~~ ^{drawn} into Slavery, by being ~~drawn~~ ^{drawn} out of our ~~Best~~ ^{Best} and ~~Right~~ ^{Right} Rights, I mean, our ~~Entire~~ ^{Entire} Freedoms of ~~Electing~~ ^{Electing} such ~~good~~ ^{good} Representatives, with whom we can with confidence trust our Religion, Lives, Honours, Liberties, Estates, and Posterity. But if the Nation shall at any time hereafter be so careless as to permit a pack'd House of Commons to be put upon her, she may then indeed be given up as an easie Prey to the Arbitrary Pleasure and Lust of those contriving Managers of her Ruin, and (what will still add Weight and Aggravation to her Misery) as she falls with Scorn, so she will fall unpitied to all Christendom.

† Prince of Orange's Declaration.

Thus was that weak Prince, King Henry the Sixth, imposed upon by his evil Councillors and Favourites, but fifteen years after the making of this last mentioned Statute, and what were the miserable Effects thereof; you shall hear the Parliament of the next Year following at Westminster declare, in these words, That divers seditious and evil disposed Persons, having no regard to the Dread of God, nor to the Damage of the prosperous Estate of the King, nor his Realm, sinisterly and importunately did labour with the King to summon a Parliament to be holden at his City of Coventry, the 20th day of the Month of November, the 38th year of his Reign, only to destroy certain of the great Nobles, faithful and lawful Lords and Estates of the King's Blood, and other of the faithful Liege-people of the Realm of England, for the great Rancour, Hatred, and Malice, which the said Seditious Persons of long time have had against them: And of their greedy and insatiable Covetousness to have the Lands, Hereditaments, Possessions, Offices, and Goods of the said Lords and faithful Liege-people; by which sinister labour

33 H. 6.
38 H. 6. call'd the Coventry Parliament.

39 H. 6. cap. 1.
Rastall's Stat. fol. 187.

**certain Acts, Statutes, & Ordinances, against
all good Faith and Conscience, in the said Parlia-
ment were made, finally to destroy the said law-
ful Lords, Estates, and Liege-people, and their Issues,
as well Innocents as other, and their Heirs, for
ever: which Parliament was unduly sum-
moned, and a great part of the Knights for di-
vers Counties of this Realm, and many Burgeses
and Citizens, for divers Burroughs and Cities in
the same appearing were named, Returned and ac-
cepted, some of them without due and free Electi-
on, some of them without any Election, against
the Course of the King's Laws, and the Liberties of
the Commons of this Realm, by the means and la-
bours of the said seditious Persons, whereby many
great Jeopardies, Enormities, and Inconve-
niences, well nigh to the Ruin, Décaÿ, and Uni-
versal Subversion of the said Realm have ensued.**

∴ All Kings that are not Tyrants, or perjured, will be glad to bound themselves within the limits of their Laws; and they that persuade them the contrary, are Vipers, and Pests, both against them and the Commonwealth. K. James I. Speech to his Parl. 1609. in his Works, fol. 531.

And therefore the King, considering the pre-
mises, and that the said Lords, Estates, and
other his Liege-people, against whom the said
Acts, Statutes and Ordinances were made,
had always had great and faithful Love to the
Preferment and Surety of the King's Person,
according to their Duty: and that few of the
Acts made in the said Parliament, holden at
Coventry, were made for the Weal of the King,
nor of his said Realm, but the greater part of the
Acts, Statutes, and Ordinances there made, were
laboured by the Conspiracy, Procurement, and Exci-
tation of the said evil disposed persons, for the in-
troduction

introduction and accomplishment of their Rancour
and inordinate Covetise : It was Ordained and
Established by the Authority of the then Parliament,
That the said Parliament holden at the said
City of Coventry, be void, and holden for no Par-
liament. And that all Acts, Statutes, and Or-
dinances, by the Authority of the same made,
be reversed, annulled, undone, repealed, revo-
ked, void, and of no force nor effect.

*The King, Lords,
and Commons,
in 39 H. 6. de-
clare the whole
Parliament of
Coventry, An.
38 H. 6. to be*

*void, and holden for no Parliament ; and all the Acts of it are repealed, and made void, because of
the undue and unfree Election of Knights, Citizens, and Burgeses to that Parliament.*

And although those Acts were repealed upon the
justest Grounds and Reason in the world ; yet so great
and powerful was the Coventry-Faction, that it raised
such a Fermentation throughout the whole Kingdom, as
never lest working, till it had effectually wrought the
utter Ruin of Henry VI. and his Son Prince Edward, as
the **Historians*, joind with our **Records*, do fully shew,
and make manifest.

** Cotton's Rec.
Speed's History.*

But now it will not be *hors de propos* to examine
the Writ of Summons it self ; for therein we shall find
several Observables worth our taking notice of : As,

1. That it plainly directs to, and enjoins an entire
Freedom in the Election of all those that are to be sent
up to serve in Parliament. The words are, *Tibi præ-*
cipimus firmi et injungentes, quod, &c. Duos milites
gladiis cinctos magis Idoneos & Discretos Comitatus præ-
dicti; & de qualibet Civitate Duos Civis, & de quoli-
bet Burgo Duos Burgeses de Discretioribus & magis
sufficientibus libere & indifferenter Eligere fac, &c. And
this is commanded to be done *juxta formam Statutorum*
inde edit. & provis ; that is, That they be freely and in-

Crompton's Jur.
p. 1, b

indifferently

differently chosen, according to the Tenor of the Statutes in that Case made and provided.

2. And the Writ does proceed further, and says, *Ita quod iidem Milites plenam & sufficientem potestatem pro se & Communitate Comit', &c. ac dict' Cives & Burgenses pro se & Communitat'. Civitatum & Burgorum divisim ab ipsis habeant, ad faciendum & consentiendum his quæ tunc ibidem de Communi Concilio Regni contigerint ordinari super quibusdam Arduis & Urgentibus Negotiis, Regem, Statum & Defensionem Regni Angliæ, & Ecclesiæ Anglicanæ concernen'*: That the said Knights, for themselves, and for their County; and the said Citizens and Burgeses, for themselves, and the Commonalty of their Cities and Burroughs, may have **severally from them** full and sufficient Power to perform and to consent to those things which shall there happen to be ordained by the Common-Council of the Kingdom, concerning the arduous and urgent Businesses of the King, the State, and Defence of the Kingdom of England, and the English Church.

3. But this is not all yet we shall observe from the Writ; there is another Clause that carries a great weight along with it, and that is this, *viz.*

Ita quod pro defectu Potestatis hujusmodi, seu propter improvidam Electionem Militum, Civium, aut Burgensium, dicta Negotia infecta non remaneant quovis modo; i. e.

So that the business may not by any means remain undone for want of such power, or by reason of the improvident Election of the Knights, Citizens, or Burgeses.

One would think, there needed no more than this very Writ, to convince and satisfy all men, that our *Choice of Representatives* to serve us in Parliament, ought to be with all the *Freedom, Fairness, and Impartiality* that can be; and that all vile Tricks and Artifices should be abhorred: For how can those be *fully and sufficiently* authorized and empowered to act for the Good and Safety of the King and Kingdom, that have not been *freely elected* by the People, who must give them that Power, which is *absolutely* necessary to make what they do to become valid, and to be accounted the Statutes of the Realm?

But notwithstanding these good and wholesome Laws to secure the *Freedom of Elections*, and the plain form of the *Writ of Summons* pursuant to these *Statutes*, and the *ancient Custom* of the Kingdom; yet some Men we have read of, have been so bold and daring in their attempts, as to bid *open defiance* to them.

And although every *Parliament* almost since *H. 6.'s* time, hath heard *loud Complaints* against the dangerous Consequences of *illegal Elections*, yet no Parliament (though many good Men have, by bringing Bills into the *House of Commons*, designed to prevent *undue Elections*) hath had the happiness, for the general Peace and Quiet of the Nation, to regulate and amend that which so bare-facedly tended to the * *Traiterous Sub-* The 5th Article of High-Treason against the five
version of the very *Rights and Beings* of Parliament.

Members in K. Charles I.'s time, says, That they had traiterously endeavoured to subvert the very Rights and Beings of Parliaments. *Husbands Collect.* 4^{to} p. 35 *Sanderfon's Hist.* 473.

I shall therefore here in the next place subjoin some few *Precedents*, to shew you how *Misdemeanors* in *Elections* have been formerly *punished* by the *House of Commons*, in the Reigns of *Queen Elizabeth*, King *James*,

James, and King *Charles I.* But one word first, concerning *Violent* and *Irregular Elections* and *Returns*.

Fox's Book of
Martyrs, last
Edit. 3 Vol.
fol. 819. Col. 1.

Idem fol. 820.
Col. 2.

' In an Oration (made by a Worthy Gentleman, viz. Mr. *John Hales*, whom I take by the Contexture of it to be one of the Long Robe) to Queen *Elizabeth*, and which was delivered to Her Majesty by a certain Nobleman, at her first entrance to her Reign; he tells her, ' That Queen *Mary's* first Parliament, wherein She and ' her Council grounded and wrought a great part of ' their Tyranny, and wherein they meant to overthrow ' whatsoever King *Edward* had for the Advancement of ' God's Glory brought to pass, was of no force or Authority: For she perceiving her Enemies stomach ' could not be emptied, nor Her malice spewed on the ' People by any good Order, she committed a great ' Disorder. She by Force and Violence took from the ' Commons their Liberty, that according to the Ancient ' Laws and Customs of the Realm, they could not have ' their Free Election of Knights and Burgesses for the ' Parliament; for she well knew, that if either *Christian-* ' men or true *English*-men should be elected, it was not ' possible that to succeed which she intended. And ' therefore in many places divers were chosen by force ' of her Threats, meet to serve her malicious Affections; wherefore that Parliament was no Parliament, but may be justly called a Conspiracy ' of Tyrants and Traytors; for the Great Part, by ' whole Authority and Voices things proceeded in that ' Court, by their Acts most manifestly declared themselves so; the rest being both *Christians* and true *English*-men, although they had good wills, yet were not ' able to resist or prevail against the multitude of Voices ' and Suffrages of so many evil, false to God, and Enemies ' to

to their Country. Also divers Burgeſſes being *orderly choſen*, and *lawfully returned*, as in ſome places the people did what they could to reſiſt her purpoſes, were *diſorderly* and *unlawfully* put out, and others, *without any Order of Law*, in their places placed.

But it was meant at the firſt, and Firſt Conſtitution of Parliament, (as is obſerved by a Learned Member in Sir *Simonds D'Ewe's Journal*), That Men of every Quarter, and of all ſorts, ſhould come to the Commons Houſe; and that they ſhould be *Freely choſen*. Sir Simonds
D'Ewe's Journ.
fol. 170. Col.
2. 13 Eliz.
1571.

And therefore he ſays, ' In Queen *Mary's* time, a *Council* of this Realm (not the Queens Privy Council) did write to a Town, to chuſe a Biſhop's Brother, (and a great Biſhop's Brother he was indeed), whom they aſſured to be a good Catholick Man; and willed them to chuſe to the like of him ſome other fit Man. The Council was answer'd, That they were prohibited by Law. And then he goes on, ' If all Towns in *England* had done the like in their Choice, the Crown had not been ſo wrong'd, and the Realm ſo robb'd, with ſuch eaſe, at that Parliament of Queen *Mary's*, and Truth baniſhed as it was. And he adds, *What hath been, may be, there is no impoſſibility*. Idem Ibid.
Col. 2.

And accordingly it happened in the ſame 13th year of Queen *Elizabeth*, that a Burgeſſ by *Bribery* had got to be *Elected*: but what *His* and the *Corporations* Punishments were for ſuch *foul dealings*, I will now ſet down, as the firſt Precedent.

Foraſmuch as *Thomas Long*, Gentleman, returned one of the Burgeſſes for the Burrough of *Westbury* in the County of *Wilts* for that preſent Parliament; being a very ſimple Man, and of ſmall Capacity to

Sir Sim. ut ſup.
fol. 182. Col. 2.

D

' ſerve

10 May 13 Eliz. 1571.
Vid. 4 Inst. 23.

serve in that Place, did in open Court confels, That he did give to *Anthony Garland*, Mayor of the said Town of *Westbury*, and unto one — *Wats* of the same Town, the Sum of Four Pounds, for that place and room of Burgeship.

It was Ordered by the House, That the said *Anthony Garland* and the said *Wats* should forthwith repay unto the said *Thomas Long* the same Sum of Four Pounds,

And also that a Fine of *Twenty Pounds* be assessed upon the said Corporation, or Inhabitants of the said Town of *Westbury*, for the Queens Majesties Use, for their said lewd and slanderous Attempt.

And that the said *Thomas Long*, his Executors and Administrators, should be discharged against the said *Anthony Garland*, and — *Wats*, their Heirs, Executors, and Administrators, of and from all Bonds made by the said *Thomas Long*, to any person or persons, touching the discharge of the exercise of the said room or place of Burgeship in any wise.

And on the 11th of May, it was Ordered, That a Pursuivant be sent with Letters from the House to *Anthony Garland*, Mayor of the Town of *Westbury* in the County of *Wilts*, and — *Wats* of the same Town, for their personal appearance forthwith to be made in the House; and also to bring with them all such Bonds, as *Thomas Long* Gentleman, lately returned one of the Burgeses for the same Town, standeth bound in unto Them, or either of them, or unto any Other to their Use. And also to answer unto such Matters as at their coming shall be objected against them by the House.

Id. Ibid.

2. In the Parliament of the 18th *Jacobi primi*, the Mayor of *Winchelsea*, for *misbehaving* of himself at the Election of *Parliament men* for that Town, and for making a *False Return*, was complained of; and therefore it was, upon the Question,

2.
The Mayor of
Winchelsea's
Case, Journ.
Dom. Com.
18 Jac. 1.

Resolved,

That the Mayor of *Winchelsea* had committed a Contempt and *Misdemeanour* against that House, and therefore shall stand committed to the *Serjeant* till Saturday morning; then making his *Submission* there at the Bar, to be discharged of any further Punishment there.

The Judgment
of the House
against him.

But he was to make his farther *Acknowledgment* in the Town before the *New Election*.

N. B.

3. Anno 20^o of King *James the First*, Dr. *Harris*, Minister of *Blechingly*, who had *misbehaved* himself by *Preaching*, and otherwise with respect to Election of *Members of Parliament* there, and being complained of in the House, and referred to a Committee; The Committee was clearly satisfied, That it was a *High and Great Offence*; and they are of *Opinion* he should be called to the Bar as a *Delinquent*, to be admonished, and to confess his *Fault* there, and in the Country, and in the Pulpit of his *Parish-Church*, on Sunday seven-night before the Sermon.

1.
Dr. Harris's
Case, Journ.
Dom. Com.
20 Jac. 1.

The Doctor was brought to the Bar, and *kneel- ed*; the House agreed with the Committee, and Mr. Speaker pronounced Judgment upon him accordingly.

D 2 4 In

30 May 24.
The Mayor of
Arundel's
Case, Journ.
Dom. Com.
20 Jac. 1.

4. In the *same* year of the *same* King, upon the Report of Mr. Glanville, concerning the *Burrough* of *Arundel*, because the *Mayor* had *misbehaved* himself in the *Election*, by putting the *Town* to a great deal of Charge, not giving a *due* and general warning, but *pack'd* a number of *Electors*; It was

Resolved,

1. That a *Warrant* be sent for the *Mayor*, he not being then in *Town*; And

2. That *three Members* shall set down the *Charges*, and the *Mayor* shall pay them.

5.
The Case of In-
gray, the Un-
der-Sheriff of
Cambridgeshire,
Journ. Dom.
Com.
21 Jac. 1.

5. Anno 21^o King James the First, Mr. Glanville reports the *Misdemeanour* of the Under-Sheriff of *Cambridgeshire*, who refused the *Poll*, declaring Sir *Thomas Steward* promised him to defend him against Sir *John Cutts*, and told him he should have no wrong nor damage.

Resolved upon the Question;

1. That this *Under-Sheriff* shall be committed to the *Serjeants Custody* till *Thursday* next.

2. That making his *Submission* at the *Bar*, and acknowledging his *Offence*, he shall be discharged from any further *Punishment* in this place.

3. That the *Under-Sheriff* shall make a further *submission* openly at the next *Quarter-Sessions* to be holden in the *County*, and acknowledge his *faults*.

Edward

Edward Ingry was brought to the *Bar*, and kneeling upon his knees, *Mr. Speaker* denounced the Judgment of the *House* upon him.

6. In the Parliament Anno 3 Caroli 1. (Where-
in the excellent *Petition of Right*, or rather a
Comment, or Explanation of several Branches
of *Magna Charta* was made) *Sir William Wray*,
Mr. Langton, *Mr. John Trelawny*, and *Mr. Edward*
Trelawny, being Deputy-Lieutenants of the County of
Cornwal, assumed to themselves a Power to make whom
They only pleased, *Knights of the Shire*, defamed *Sir*
John Elliot, and *Mr. Coryton*, who stood to be cho-
sen, sent up and down the *Countrey*, Letters for the
Trained-Bands, to appear at the day of *Election*; me-
nac'd the *Countrey* under the Title of His Majesties Plea-
sure.

6.
The Case of Sir
W. Wray, Mr.
Langton, Mr.
J. Trelawny,
and Mr. E. Tre-
lawny.
Journ. Dom.
Com. 3 Car. 1.

It was Ordered,

1. That *Mr. Langton*, and *Mr. John Trelawny*, be
committed to the *Tower*, for their Offence done to the
House, there to remain during the Pleasure of the
House, and that they make a *submissive acknowledgment*
of their Offences.

2. And *Sir William Wray*, and *Mr. Edward Trelawny*,
be committed to the *Serjeant*, and so to remain,
till they make their *Recognition* in the *House*.

After all which, the *Question* was, Whether the *Gen-
tlemen* should make the *Recognition* at the *Affizes* in
Cornwall, or No? And it was Ordered,

That the *Recognition* and *Submission* should be
made in the *Countrey*; and a *Committee* was appointed
to

to draw the *Recognition*, and they were sent to the Tower.

The *Four Gentlemen* were called in to the *Bar*, and the *Speaker* pronounced the *Judgment* upon them, they kneeling all that time.

7. Mr. Hackwell reports from the *Committee* about the *Sheriffs* of *York*, and others, for the *Election* of Sir *Thomas Savill*.

The Case of the
Sheriffs of York
and others.
Journ. Dom.
Com. 3 & 4
Car. I. Tuesday
April 29.
Sher. Thompson's
Two Offences.

The Two *Sheriffs* and the Two *Aldermen* are *Delinquents*; one of the *Sheriffs*, and one of the *Aldermen* are most faulty; Sheriff *Thompson* had committed Two *Offences*.

His First.

1. His hasty and precipitate Judgment of the *Election*, to prevent the *Election* of *Hoy*.

His Second.

2. In denying the *Poll*, being required.

First, his hasty and precipitate Judgment was done without acquainting his *Fellow-Sheriff*, and it was within a quarter of an hour after the reading of the *Writs*, and half an hour after nine a Clock; and while he was doing of it, he was admonished, and told that he could not answer it, and that he might defer it; yet he did obstinately proceed, and answered them forwardly, and said he would do it, and that he would justify it.

His Excuse.

His *Excuse* was, That it was indeed suddenly done, but it was done so formerly. But to that it was replied, that never before above two were in *Election*.

Secondly, he answered, That it was not of his own head, but some *Aldermen* advised it; but that was *Alderman Cooper*, a *Delinquent* for that *Offence*.

For

For the other Offence, in denying the Poll, after it was demanded, and that was before he had pronounced any Judgment, but he was willing that Robinson should have the Poll, for he knew he could not carry it; but he refused Hoy, and he was required ten times, but gave no answer at all. His Behaviour before the Committee was impudent, and he would answer nothing directly.

His 2d Offence.

His Impudent Behaviour.

The Committee found this man to be an engaged man, and that he was promised to be saved harmless.

For Alderman Henlow, he procured the Company of Ald. Henlow, Taylors, two days before the Election, and published Sir John Savill's Letter, and pressed it; and upon some he pressed it so much, that they should elect Sir Thomas Savill; and said the Parliament will not hold.

He dealt with the Sheriffs also, and told them divers words of Sir John Savill, that he would take it very ill; and, said he, if you will chuse Sir Thomas Savill, you shall be saved harmless.

Also he endeavoured to procure a Certificate, that Sir Thomas Savill was duly elected; when any refused, he said they were factious fellows, and otherwise threatened.

The Committee censured Sheriff Thomson, and this Alderman Henlow.

The Committees Censure.

First, That they should stand committed to the Serjeant, during pleasure.

Secondly, That they should acknowledge their Offences at the Bar in the Full House, and pay all due Fees, before they be discharged.

Thirdly, Also they should defray all the Charges of the Witnesses of Alderman Hoy, to be assessed by Four of the Committee.

Last-

Lastly, And that they should make *acknowledgment* of their *Fault*, before the *Court* of *Aldermen* at *York*, and that the *Mayor* should certify the *Submission* to the *House*.

Ald. Cooper.

As for *Alderman Cooper*, he assembled the *Company* of *Merchants*, and read *Sir John Savill's* Letter for the *Election* of his *Son*, and also he at the *Election* persuaded the *Sheriff* to give *Judgment*.

Sher. Atkins.

Sheriff Atkins was only *passive*, and did not *refuse* to join with the other *Sheriff*.

As for the point of *Charges* given to the *Witnesses* of *Hoy*, it was *doubtful*, and *objected* against by some, whether in the *Power* of the *House*; but it was replied, That in *every Court* it is necessary to have *Power* to impose *Fines*, and why we should want *Power* for *Offences* that lie in our *cognizance*, is not to be questioned; else the *Party* that is *duly Elected*, and that justifies the *Free Election*, and maintains the *Freedom* and *Liberty* of the *Common-wealth*, shall be *more punished* than the *Delinquent*; also we have power to *imprison*, which is more than a *Fine*; also we have as much as the *Lords House* in those things that lye in our *Jurisdiction*. Several *Instances* were here given of *Fining* persons, which I omit.

Crompton's Jurisdic. p. 8, 9, 10, 11.

I shall observe as to their *Power* of *Imprisoning*, that in the 34 *H. 8.* almost 150 years ago, for *Breach* of *Privilege*, the *Sheriffs* of *London*, in *Ferrers* case, were committed to the *Tower* of *London*, and the *Clerk* (who was a *Learned Lawyer* of the *Middle Temple*, and *Reader* in 1573. the 15th year of the *Queen's* *Reign*; he dedicated his *Book* to *Sir John Puckering, Knt.* *Lord Keeper* of the *Great Seal* of *England*, in the year 1594. almost 100 years ago.

was

was the occasion of the *Fray*) to a place there called *Little-Baſe*; and the Officer of *London* which did the Arrest, called *Taylor*, with Four Officers, to *Newgate*; where they remained Three Days, and then delivered, not without *Bumble Suit* of the Mayor of *London*, and other their Friends. And the Proceedings of the *Commons* in this case of *Ferrens*, in maintaining the Priviledge of their House, was not only commended even by King *Henry the Eighth* himself, but was also confirmed by divers Reasons, by the Lord Chief Justice *Mountague*, and assented unto by all the rest of the Judges. *But to return to the Case before us, of the Sheriffs of York, and Others.*

Hollinsh.
Chron. f. 1584.

It was upon that whole matter Ordered, That *Thompson* and *Hemlow* pay the Charges of Witnesses, brought up about the Proof of the said Election; and that they shall not be discharged from the Serjeant, till they pay their Fees; and Four Gentlemen of the House are to moderate, and set down the Charges in certain.

And it is Ordered, That they shall be committed to the Serjeant till they make their Submission at the Bar, and acknowledge their Faults on their Knees, and read a Submission. As for the Submission to be made at *York*, it was through great Favour remitted by the House.

To these few Instances (out of several others which might be collected from the Journals of the Commons House) give me leave to superadd the Case of the Borough of *Stockbridge*, which happened in the last Parliament; and I find it thus set down in their Printed Votes.

8.
*Votes of the H.
 of Commons,
 Primo. Will.
 & Mariæ, n^o.
 19. Veneris 15
 die Nov. 1689.*

8. Mr. Grey reports from the *Committee of Privileges and Elections*, the Case touching the Election of a Member to serve in this present Parliament, for the Borough of *Stockbridge*, in the County of *Southampton*; that there had appeared very undue practices in giving and promising several Sums of Money for procuring Voices at the said Election; whereupon the said Committee had come to Three Resolutions, *viz.*

Resolved,

1. That *William Mountague*, Esquire, is not duly Elected a Burgess to serve in this present Parliament, for the said Borough.

2. That *William Strode* Esquire, is not duly elected a Burgess, to serve in this present Parliament for the said Borough.

3. That the said Election is a void Election.

To all which Resolves, the House agreed.

Ordered,

That *Richard Hewes* (Bailiff of *Stockbridge* in the County of *Southampton*) *Page Robinson*, — Gatehouse, and *Samuel Hall* of *Stockbridge* aforesaid, be sent for in Custody of the Serjeant at Arms, attending this House, for giving and taking Bribes at the said Election.

Resolved,

That *William Mountague* Esquire, be disabled from being Elected a Burgess to serve in this present Parliament, for the said Borough of *Stockbridge*.

The

The Question being put, That *William Strode*, Esquire, be disabled in like manner, it passed in the Negative.

A Debate arising touching the *Disfranchising* of the said Borough for ever hereafter, from sending Burgeses to Parliament; and instead thereof, that Two more Knights of the Shire be chosen for the County of *Southampton*.

Resolved, That the Debate be adjourned.

A Petition of *Atewes* and other Inhabitants of *Stockbridge*, in Custody of the Serjeant at Arms, attending the House, was read; wherein they acknowledge their Offence, in promising several sums of Money for Votes, and other undue practices at the late Election there, and crave Pardon of the House for the same.

Idem n^o. 29.
Mercurii 27
die Nov, 1689.

And the Petitioners being called in, and severely reprov'd by Mr. Speaker for their said Offences, were discharged, paying their Fees.

The next day a Petition of *Page Robinson*, in Custody of the Serjeant at Arms attending this House, was read; wherein he acknowledged his Offence in giving Bribes for procuring Voices at the late Election at *Stockbridge*, and craved the Pardon of the House for it: And he being called in, and severely reprov'd by Mr. Speaker for his said Offence, was discharged, paying his Fees.

Idem, N^o 30.

And it was Ordered,

That Mr. Speaker issue his Warrant to the Clerk of the Crown, for a New Writ for electing a Burges for *Stockbridge* in the County of *Southampton*, in the room of Mr. *Mountague*.

Idem, N^o 44.
die Sabbati, 14.
Decembris.

Thus

Thus, Sir, you see, though our *Parliaments* have not yet sufficiently provided for the *Regulating Elections* by a General and Publick Law; yet the *House of Commons*, as an Ancient Right of their very *Essence* and Being, **from which they cannot depart**, have still, upon Complaints made to them of *foul Practices* in getting the *Returns* of Members to serve in Parliament, that have not been *duly chosen*, always taken care to inflict *suitable Punishments* upon the *Offenders*, to shew their *Dislike* and *Abhorrence* of their Crimes.

And, I hope, if it shall be proved, that any *notorious* and *scandalous Pranks* have been played, to get a Party of Men into your *House*, either by *Fraud*, or *Force*, or whatever other *unwarrantable Pretence*, not allowed by the *Laws* of this *Realm*, that shall be ready to foment *Differences*, create *Disagreements* in your *Councils*, and *disturb* or *delay* your *speedy* and *unanimous Proceedings* upon the *necessary Matters* before you, for the *Peace* and *Settlement* of the *Nation*, you will make it your *special Care* to summon all such *Criminals* to your *Bar*, and upon *Conviction*, to give them the *Justice* due to their *Demerits*; that the *Acknowledgement* of their *Faults*, the *Repentance* for them, and *humble Submission* to the *Righteousness* of your *Censures*, may be as *publick* in their respective *Counties*, *Cities*, and *Burroughs*, as their *bold Invasions* have been upon the *Indubitable Rights* and *Priviledges* of the *Subject*, contrary to the *Tenour* of the **Great Charter** of the *Liberties* of *England*, (*Augustissimum Anglicarum Libertatum Diploma*, & *Sacra Anchora*, as Sir *Henry Spelman* justly calls it) which says, That the *City of London* shall have **All** the

K's Sp. to both
Houses of Parl.
21 March,
1692.

Mag. Chart. 9
H 3. cap. 9.
Spelm. Glossar.
ii. Magni
Charta, fol.
374.

the **Old Liberties** and **Customs**, which it hath been **used** to have. Moreover, We will and grant, That **ALL OTHER Cities, Burroughs, Towns,** and the *Barons* of the *Five Ports*, and all other *Ports*, shall have **All** their *Liberties* and *Free Customs*.

There is a very useful Treatise lately published, called, *Lex Parliamentaria*, in the *Appendix* whereof we read this remarkable Note, 'That the Chancellor cannot examine Returns to Parliament; and the Reason is, 'because thereby the County may lose the **freedom** of their **Elections**; And the Book says, That by such 'means the King with his Council might make any 'Man whom they would, to be of the Parliament-house, 'against the **Great Charter**, and the Liberties of 'England.

Lex Parliam.
pag. 319.

Now, *Sir*, as that can never be too often inculcated, which ought never to be forgotten, I must beg the favour to remind you of one thing, which You and I have several times discoursed of formerly, because it equally concerns the *Ancient Rights* of both *Lords* and *Commons*, in giving their *concurring Assents* to the Making and Enacting of *Statutes*, which some Sycophanting Scriblers have in this *last Age* been industriously labouring to deprive and rob them both of, for the Advance of an *Absolute* and *Despotick* Monarchy; And that is,

I. That this **Great Charter** was **not** purely and meerly an *Emanation* of *Royal Grace* and *Bounty*, which the People of *England* could not pretend any *Right* unto before; but it was a restoring to them such **Liberties** as had been *ravished* from them by an *usurped* and *encroached Power*, as you may observe by several

several Expressions in this Charter, viz. *Sua Jura*, their Rights; *Libertates suas*, their Liberties, which shews plainly, That they were *possessed* of them before; and that therefore this was but a *Restitution* or *Confirmation* of them; For which (as my L. Coke's words are) the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Knights, Freeholders, and other the King's Subjects, Citizens, and Burgeses (assembled in Parliament) gave unto the King one fifteenth part of all their Movable Goods; which proveth, That as the **Fiftenth** was granted by **Parliament**, so was this **Great Charter** also granted by **Authority** of the same.

* 28 E. 3. cap. 1.

36 E. 3. cap. 1.

Littleton, sect.

108.

12 E. 4. cap. 7.

Rot. Stat. 25

E. 1. m. 38.

vid. 2. Instit.

525.

Idem, 526.

Rot. Parl. 15

E. 3. n. 50.

dorso.

2. And that this was a * **Statute**, and made,

1. *Per Commune Assent de tut le Roialme en temps le Roy Henry nostre Piere*, by the common Assent of all the Realm in the time of King Hen. 3. that is, saith my Lord Coke, by Authority of Parliament. Or,

2. As the Statute of the 15 *Edw.* 3. more particularly expresses the *constituent Parts* of the Makers of it; *scilicet*, that it was made *par Seignieur le Roy, Piers, & la Commune de la terre*; by the King, Peers, and Commons of the Land.

I will give you at present no further trouble, but only assure you, That in whatsoever you shall please to command, according to the utmost extent of my Capacity, you shall always find me,

S I R,

Your most Obedient Servant, &c.

